

**DEPARTMENT OF HEALTH SERVICES
BUREAU OF EMERGENCY MEDICAL SERVICES
SUBSTANTIVE POLICY STATEMENT
#SP-052-PHS-EMS**

**EMS 411: Clarification on When a Transfer of a Certificate of Necessity is Required Under
A.R.S. § 36-2236 and 9 A.A.C. 25, Article 9**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.

The purpose of this substantive policy statement is to identify the changes in a ground ambulance service that constitute the transfer of a certificate of necessity.

EMS 411: A.R.S. § 36-2236 and 9 A.A.C. 25, Article 9 require that a holder of a certificate of necessity receive approval from the Arizona Department of Health Services, Bureau of Emergency Medical Services (Department) before transferring a certificate of necessity. A "transfer" is defined in R9-25-901(63) as "a change of ownership or type of business entity."

Therefore:

1. A transfer of a certificate of necessity is required if the certificate holder has changed or intends to change its business type from that identified on the application form submitted for an initial certificate of necessity or for renewal of a certificate of necessity:
 - a. R9-25-902(A)(1)(g) requires the applicant to identify whether the business entity is proprietary, non-profit, or governmental; and
 - b. R9-25-902(A)(1)(f) requires the applicant to identify whether the ground ambulance service is a corporation, partnership, sole proprietorship, limited liability corporation, or other.
2. Under R9-25-901(14)(a), a transfer of a certificate of necessity is required if the certificate holder operates the ground ambulance service as a sole proprietorship, and has sold or transferred or intends to sell or transfer 20% or more interest or a beneficial interest.
3. Under R9-25-901(14)(b), a transfer of a certificate of necessity is required if the certificate holder operates the ground ambulance service as a partnership or a private corporation, and has sold or transferred or intends to sell or transfer 20% or more of the stock, interest, or beneficial interest.

4. Under R9-25-901(14)(C), a transfer of a certificate of necessity is required if the controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered. The Department will consider a number of factors in making this determination. The presence of one or any combination of factors does not necessarily mean that the management and control of the ambulance service has been significantly altered. At a minimum the following factors will be considered:
- a. Whether there has been or will be a change in who manages or controls the day to day operations of an ambulance or ambulances operated by the ground ambulance service, including whether the certificate holder has entered into or intends to enter into a contract or an agreement with another person or entity to supervise or manage all or a part of the ambulance service;
 - b. Whether there has been or will be a change in who manages or controls staffing and personnel decisions of an ambulance or ambulances operated by the ground ambulance service;
 - c. Whether there has been or will be a change in the operating policies and procedures of an ambulance or ambulances operated by the ground ambulance service;
 - d. Whether there has been or will be a change in who pays the operating expenses or who receives the operating revenue, or a significant change in the insurance coverage of an ambulance or ambulances operated by the ground ambulance service;
 - e. Whether there has been or will be a change in ownership, management, or control of the supplies, equipment, and materials of an ambulance or ambulances operated by the ground ambulance service;
 - f. Whether there has been or will be a change in the risk or liability attendant to the operation of an ambulance or ambulances operated by the ground ambulance service;
 - g. Whether there has been or will be a change in who manages or controls the strategic or long term planning of an ground ambulance service;
 - h. Whether the certificate holder has changed or intends to change affiliations, such as a parent company or a subsidiary owned or operated by the certificate holder. (R9-25-1102(A)(6)); and
 - i. Other information related to the management and control of the ground ambulance service that the Department deems relevant.

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